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July 17, 1992

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

In re: Fleet Call, Inc.
Petition for Rulemaking
RM-7985
Comments of The Ericsson Corporation

Dear Ms. Searcy:

Transmitted herewith on behalf of The Ericsson Corporation is an original and 5 copies of its "Comments of The Ericsson Corporation" for filing in the above-referenced proceeding.

Should there be any questions with regard to this matter, kindly communicate directly with the undersigned.

Very truly yours,

David C. Jatlow
Counsel for The Ericsson Corporation

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Policies and Rules for	)	
Licensing Fall 800 MHz	)	RM-7985
Specialized Mobile Radio	)	
Spectrum Through a	)	
Competitive Bidding Process	)	

COMMENTS OF THE ERICSSON CORPORATION

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Summary

The Ericsson Corporation opposes the Petition for Rulemaking filed by Fleet Call, Inc. It asserts that Fleet Call has not demonstrated a competitive bidding process is warranted in this situation. In addition to the fact that there are other means available to the FCC to raise revenue based on the value of spectrum and to use the allocation process as a mechanism to prevent the filing of wholly speculative applications, competitive bidding for Private Land Mobile spectrum would seriously disadvantage the numerous individuals and small businesses that rely on such licenses to help conduct their businesses.

In addition, Fleet Call's request that all "innovator block" licensees be required to operate systems which are compatible with neighboring and nearby major market systems could result in an FCC sanctioned monopoly in the supply of such equipment because Ericsson believes one entity controls the manufacture of equipment compatible with that proposed by Fleet Call.

Lastly, Fleet Call's request to have the Commission adopt a "6 times capacity" standard for innovator block channels is insufficiently articulated or described to warrant positive Commission action thereon. Indeed, based on the capacity increases Fleet Call asserts its digital system will gain relative to analog trunked SMR systems the Fleet Call system does not meet its own proposed "6 times capacity" proposal.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of:	)	
	)	
Policies and Rules for	)	RM-7985
Licensing Fallow 800 MHz	)	
Specialized Mobile Radio	)	
Spectrum Through a	)	
Competitive Bidding Process	)	
	)	

Comments of The Ericsson Corporation

The Ericsson Corporation, on behalf of itself, Ericsson GE Mobile Communications, Inc. and other affiliated companies of LM Ericsson (hereinafter collectively referred to as "Ericsson"), respectfully submit its comments in opposition to the above-captioned Petition for Rulemaking ("PRM") filed with the Commission by Fleet Call, Inc. ("Fleet Call"). In support of its comments Ericsson states as follows:

Introduction

As one of the world's leaders in the manufacture of telecommunications products and systems Ericsson has long supported innovative proposals which use spectrum efficiently and bring new, competitive services to the public. However, its review of the Fleet Call PRM leads Ericsson to conclude that implementation of the Fleet Call proposal would be contrary to the public interest from a number of technical and policy standpoints. Specifically Ericsson is of the opinion that Fleet

Call has not justified, even on a limited basis, its proposal for a competitive bidding process for innovator block channels. Fleet Call's request to freeze the processing of innovator block applications is having a chilling effect on the deployment and/or expansion of SMR systems. Furthermore, Ericsson is of the opinion that Fleet Call's requests for (1) mandated interoperability with its own digital system and (2) a 6 times capacity efficiency standard are not sufficiently thought out or described to warrant positive Commission action thereon.

Competitive Bidding Proposal

Fleet Call asserts that the Commission should seek auction authority from Congress as a means allocating innovator blocks. It states that a competitive bidding process will eliminate spectrum speculators and the attendant problems the FCC has encountered in its lottery selection process and will provide hundreds of millions of dollars in revenue to the government for the use of spectrum.

Ericsson neither opposes the concept of control of the allocation process to stop speculative applications nor the premise that from a public policy standpoint the government may be entitled to receive financial benefits that flow from the value attributed to radio spectrum. However Ericsson maintains that Fleet Call has not made a persuasive case to justify the use of a competitive bidding process in this particular situation.

Perhaps the most important public policy argument against the use of competitive bidding in the context of Fleet Call's

proposal is that it is being proposed for spectrum allocated to the Private Land Mobile services. Historically, the private land mobile community has been made up of individuals, relatively small businesses and certain categories of government users. These entities typically use private land mobile facilities for their own internal needs. These users must be distinguished from Fleet Call whose business it is to use radio spectrum to provide telecommunications services for others on a for profit basis. Because Fleet Call needs radio spectrum to generate profits it has great incentive to pay for spectrum. That being the case Fleet Call, a public company with significant funds at its disposal to promote its business, is likely to be willing to pay dearly for innovator block spectrum.[1]

Ericsson fears that if the Commission seeks and obtains authority to use a competitive bidding process for innovator blocks it will open the door to the allocation of spectrum by competitive bidding for all private land mobile facilities thereby precluding smaller, less financially secure entities from obtaining spectrum they need or forcing them into bidding wars with companies having substantially greater sums of money for this purpose.

Fleet Call asserts that one of the primary advantages to a

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[1] Fleet Call notes that there are many markets where "substantial bids" for innovator block spectrum should be expected. See, Fleet Call PRM at pp. 21-23. However, it must be noted that Fleet Call's proposal to have a series of regional auctions would appear to be designed to minimize the "cost" of spectrum since bids could be based on the experience of other markets in which auctions had already taken place.

competitive bidding process is that it "...will generate hundreds of millions of dollars in licensing bid receipts for the United States Treasury"[2] which would otherwise be transferred to non-government entities via private auctions in a secondary market.[3] That there may be a benefit to the government receiving compensation for the value of the spectrum it allocates is a subject currently under intense debate. Assuming for purposes of this proceeding that the public interest is served by such a concept, Ericsson submits there are other means to accomplish the desired result without resorting to an auction which works against smaller, financially less robust yet equally deserving applicants. For example, a transfer tax or fee (based on a percentage of the value of the transaction) could be levied on entities upon the closing of any transaction resulting in an assignment of license or transfer of control of a licensee.[4] Another method of providing revenue to the government for the use of spectrum could be to impose an annual fee on holders of radio licenses. As with the transfer tax example set forth above, an annual fee proposal would allow the FCC to continue to manage the spectrum in a fair and efficient manner while at the same time

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[2] Fleet Call PRM at p. ii.

[3] Fleet Call PRM at p. 25.

[4] There are a number of advantages to the transfer tax proposal. Unlike an auction where the government might be compensated only once, a transfer tax would be a continual source of revenue since it would be levied each time a radio license was assigned or transferred. Also, over time the "true" value of spectrum would be determined based on its actual use in the marketplace as well as inflationary ups and downs.

allow the government to derive revenues based on the value of the spectrum on a continual basis rather than on a one time basis through an auction.

Fleet Call also asserts that a benefit to its proposal for competitive bidding is that it would preclude the filing of speculative applications. Ericsson agrees with Fleet Call's concept of the need to limit speculative applications. But as set forth above, Ericsson believes other methods are available to the FCC to prevent the filing of speculative applications for radio facilities which are less harmful to the individuals and small businesses which would be adversely impacted in a significant manner by the implementation of an auction for innovator block SMR channels.

For example, the most obvious method would be for the FCC to impose extremely strict filing requirements for applications for facilities which could be subject to filing abuse. This was done when the FCC established procedures for the filing of 220 MHz nationwide channels. This was extremely effective in reducing the filing of nationwide applications. Indeed, the filing of only 14 applications for the 10 channel nationwide 220 MHz authorization can hardly be considered speculative relative to the tens of thousands of applications the FCC has received for various cellular MSAs, RSAs, local 220 MHz channels and for an additional nationwide paging frequency. Thus, without imposing a controversial policy for which Congressional authority is needed the Commission does have the means to be able to effectively

control and keep to a manageable level the number of applications tendered for filing.

Processing Freeze on Innovator Block Channels

In its PRM Fleet Call requests that the Commission refuse to grant additional licenses on the innovator block channels pending selection of licensees for these channels by a competitive bidding process. The ostensible purpose for justifying its request is that such a policy will "...prevent speculators from undercutting the purpose of the innovator block concept."[5]

Even assuming Fleet Call's assertion is true that speculators may file applications for innovator block channels, Ericsson submits Fleet Call's request must be denied since it has already had a "chilling" effect on the plans of some existing and proposed SMR operators to file applications for SMR facilities.

Through its dealer network for trunked SMR products Ericsson has been advised that a number of customers or potential customers have decided not to move forward with plans to expand or deploy SMR systems. Ericsson has been advised by dealers that some customers believe construction and operation of SMR systems in certain areas would not be prudent in the event the Commission adopts Fleet Call's PRM in whole or in part. This is due to the fact that technical standards, loading standards and/or interoperability standards to name a few might change which could substantially alter their existing business plans. Some have

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[5] Fleet Call PRM at p. 21.

expressed the view that if Fleet Call's PRM is granted the structure of the entire SMR industry might change thereby making existing and/or planned investment in trunked SMR systems worthless at worst and having significantly reduced value at best. Rather than getting caught in a changing regulatory environment which could have a devastating impact on its operations, some customers have decided to defer plans to implement SMR systems in certain areas until the Fleet Call PRM is acted upon.

Ericsson does not dispute the FCC's legal authority to adopt rules or policies which freeze the processing of applications pending consideration of regulatory actions. Indeed, Ericsson believes there are circumstances in which such regulatory action is prudent and serves the public interest. However, regulatory action which can have the impact of preventing the expansion of services should not be lightly undertaken. In this particular situation Ericsson is of the opinion that Fleet Call has not made a persuasive case that a freeze on the grant of applications for innovator block channels (which could last for years) outweighs the public interest of continuing deployment of SMR systems in numerous markets throughout the U.S.

Interoperability

Fleet Call requests that innovator block systems "...be required to adopt a system architecture that enables roaming and interoperability with neighboring and nearby major market digital

SMR systems..."[6] The request is ostensibly designed to make it easier for Fleet Call to provide nationwide, seamless enhanced SMR service. Fleet Call also claims that the wider expansion of digital technology in the SMR environment will cause the cost of digital base stations and mobile units to be reduced.[7]

Ericsson generally favors interoperability of radio systems and, in fact, has supported such positions before the FCC and other government agencies. Indeed, one of the primary reasons for taking the position that the FCC should do more to promote uniform, open standards for various radio technologies is that uniform, open standards tend to create more competition in the equipment marketplace. This in turn significantly reduces the cost of base station and terminal equipment which inures to the benefit of the consumer. However, Ericsson can not support the proposal of Fleet Call because it does not ensure, to the extent possible, that consumers will gain the benefit of competition in the equipment marketplace.

Ericsson's position differs from Fleet Call's in that Ericsson believes uniform standards (such as for example interoperability standards) should be adopted by independent standards setting organizations with the full participation of manufacturers, service providers and users alike. This allows for full discussion of appropriate standards, needs of the user community, technical feasibility analyses and resolution of IPR

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[6] Fleet Call PRM at p. 30.

[7] Fleet Call PRM at p. 13.

issues. Uniform standards adopted pursuant to proceedings at which due process has been afforded to all, provides the opportunity for the entire manufacturing community to make equipment to meet the standard. This is what creates competition and lowers prices.

Fleet Call's vision of a mandatory interoperability standard would appear to be different. Fleet Call notes that the Motorola MIRS system is the backbone of its network.[8] Presumably, because there will be few other than Fleet Call with sufficiently deep pockets to bid for innovator block systems, innovator block systems will have to be compatible with the MIRS system. To the best of Ericsson's knowledge MIRS technology has not been proposed as an industry standard since it has not been proposed as such to any accredited standards setting organization. This is important since industry standards provide the necessary due process to all interested parties to ensure that an acceptable uniform, open standard can be developed. That being the case, Fleet Call is in effect urging the FCC to adopt the MIRS system as a de jure digital standard for the SMR industry. With only one manufacturer controlling the making of equipment to a de jure standard, prices of base stations and terminal equipment will not decrease. In a monopoly equipment market there is no incentive for prices of equipment to be based on cost. Ultimately the consumer will suffer the economic consequences of a lack of

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[8] Fleet Call PRM at p. 4.

competition.[9] Ericsson does not believe the Commission, or its processes, should be used to require the use of a proprietary standard as a condition to obtaining a license for innovator block spectrum.

Spectrum Efficiency Standard

Fleet Call has also requested the Commission to impose a rule which requires any innovator block system to operate at "6 times the capacity" of existing analog trunked SMR systems. Ericsson agrees in concept with Fleet Call's general call for a spectrum efficiency standard. However, it can not support Fleet Call's specific 6 times capacity standard since it is entirely too vague. In fact, the lack of specificity provided is such that it would appear that Fleet Call has not demonstrated its own digital system will operate at 6 times the capacity of existing analog trunked systems.

In the FCC's Refarming proceeding Ericsson argued that the FCC should adopt a spectrum efficiency standard for the Private Land Mobile bands below 470 MHz.[10] In its comments in that proceeding Ericsson acknowledged that the various criteria that go into such a determination are complex but that the FCC should initiate a proceeding to start the process of defining a minimum level of spectrum efficiency for all licensees in the private

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[9] Fleet Call notes that MIRS or MIRS-compatible systems are planned by all DMNRC members. As set forth above, Ericsson believes one entity controls the manufacuture of such equipment.

[10] See, Comments of The Ericsson Corporation in PR Docket No. 91-70.

land mobile bands below 470 MHz.

Fleet Call's PRM underscores the difficulty in defining the concept of spectrum efficiency as well as the need for specificity before asking the Commission to adopt a 6 times capacity rule. At footnote 37 of its PRM Fleet Call states that with a 105 channel innovator block of spectrum its digital SMR system will be capable of providing service to 25,000 subscribers. With an 84 channel innovator block of spectrum it claims to be able to provide sufficient capacity to service 19,000 subscribers and with a 42 channel innovator block of spectrum it will be able to provide service to 8,000 subscribers.

Under current Commission rules SMR trunked analog system channels are considered to be loaded (i.e., being fully utilized) when providing service to 100 subscribers. Using 100 mobiles per channel as a fair assessment of a fully utilized system, an analog trunked SMR system with 105 channels (or multiple systems in a given geographic area with an aggregate of 105 channels) would be capable of providing SMR capacity for 10,500 subscribers. If a single SMR system or multiple systems had 84 and 42 channels in the aggregate, they would be able to provide capacity for 8,400 and 4,200 subscribers respectively.

While it is true that Fleet Call's DMR system does provide certain capacity increases over analog trunked systems, Fleet Call's digital system apparently does not come close to meeting its own stated goal of providing a 6 times capacity increase over analog trunked systems. Rather, using Fleet Call's numbers the

increases in capacity for 105, 84 and 42 innovator block channels amount to capacity increase over today's analog trunked systems of only 2.4 times, 2.2 times and 1.9 times, respectively.[11]

Until such time as Fleet Call makes a specific demonstration on how its proposed 6 times capacity increase rule would work and how its system provides 6 times capacity over existing analog trunked systems of comparable size, Ericsson suggests the Commission's consideration of the overall benefits of the innovator block proposal is premature.

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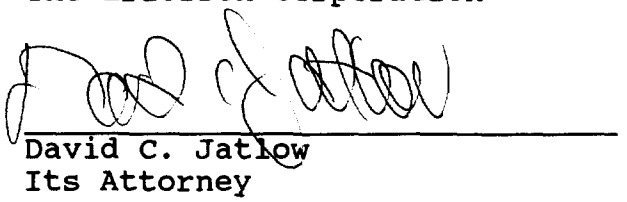
[11] Another way of looking at the relative spectrum efficiency of Fleet Call's system is to view it in terms of subscribers served per channel. Fleet Call's digital system is capable of providing service to 238 users per channel on a 105 channel system (25,000 subscriber capacity divided by 105 channels), 226 users per channel on an 84 channel system (19,000 subscriber capacity divided by 84 channels) or 190 users per channel on a 42 channel system (8000 subscriber capacity divided by 42 channels). These subscriber per channel capacity figures must be compared to traditional trunked analog SMR systems which are able to handle 100 subscribers per channel.

For all of the foregoing reasons, Ericsson respectfully requests that Fleet Call's Petition for Rulemaking be dismissed.

Respectfully submitted

The Ericsson Corporation



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July 17, 1992

Certificate of Service

I, David C. Jatlow, do hereby certify that a copy of the foregoing "Comments of The Ericsson Corporation" was mailed, postage prepaid, this 17th day of July, 1992 to the following:

Robert S. Foosaner
Fleet Call, Inc.
1450 G Street, N.W.
Washington, D.C. 20036

David C. Jatlow